

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

ILLINOIS  
COMMERCE COMMISSION

AUG 3 9 33 AM '01

CHIEF CLERK'S OFFICE

Illinois Bell Telephone Company, )  
AT&T Communications of Illinois, Inc., )  
TCG Illinois, TCG Chicago, TCG St. Louis, )  
WorldCom, Inc., )  
McLeodUSA Telecommunications Services, Inc., )  
XO Illinois, Inc., )  
NorthPoint Communications, Inc., )  
Rhythms Netconnection and Rhythms Links, Inc., )  
Sprint Communications L.P., )  
Focal Communications Corporation of Illinois, )  
and )  
Gabriel Communications of Illinois Inc. )

No. 01-0120

Petition for Resolution of Disputed Issues )  
Pursuant to Condition (30) of the SBC/Ameritech )  
Merger Order. )  
)  
)  
)  
)

**REBUTTAL TESTIMONY**

**OF**

**SALVATORE FIORETTI**

**On Behalf of**

**AMERITECH ILLINOIS**

**August 2, 2001**

1                   **REBUTTAL TESTIMONY OF SALVATORE FIORETTI**  
2  
3

4   **INTRODUCTION**  
5

6   **Q.   PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

7   A.   My name is Salvatore Fioretti. My business address is 2000 W. Ameritech Center Drive,  
8       Location 4648, Hoffman Estates, Illinois.

9   **Q.   ARE YOU THE SAME SALVATORE FIORETTI WHO PRESENTED DIRECT**  
10       **TESTIMONY IN THIS PROCEEDING?**

11   A.   Yes.

12   **Q.   WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

13   A.   The purpose of my rebuttal testimony is to address certain issues regarding the Remedy  
14       Plan proposed by Ameritech Illinois and the Remedy Plan proposed by the CLECs for  
15       Illinois raised by Illinois Commerce Commission ("ICC") Staff Witnesses McClerren and  
16       Patrick and Intervenors Moore and Cox in their direct testimony filed on July 13, 2001 in  
17       this proceeding.

18   **I.   DEVELOPMENT OF THE REMEDY PLANS**

19   **Q.   IS MS. MOORE CORRECT WHEN SHE STATES (AT P. 5) THAT THE REMEDY**  
20       **PLAN PROPOSED BY AMERITECH ILLINOIS IS THE TEXAS REMEDY PLAN**  
21       **INITIALLY CRAFTED BY ITS AFFILIATE SOUTHWESTERN BELL**  
22       **TELEPHONE COMPANY ("SWBT") AND THE FORMER CHAIR OF THE**  
23       **TEXAS PUBLIC UTILITIES COMMISSION ("TEXAS PUC"), AND**  
24       **SUBSEQUENTLY ACCEPTED BY THE TEXAS PUC?**

1 A. No. Ms. Moore is correct that the Texas Remedy Plan was used as the template for  
2 Ameritech Illinois' Remedy Plan, but her description of how this plan was "crafted" is  
3 incorrect. As explained in Mr. Dysart's direct testimony, the Texas Remedy Plan was the  
4 product of a collaborative effort. It was developed by the Texas PUC, who received input  
5 from SWBT, CLECs, and the FCC. The Texas PUC Staff then developed a plan that  
6 combined features of each proposal, and the Texas PUC solicited a further round of input  
7 on its plan. The Texas Remedy Plan was not developed by SWBT and the former Chair of  
8 the Texas PUC as Ms. Moore describes.

9 **Q. WAS THE CLEC PROPOSAL DEVELOPED THROUGH A SIMILAR**  
10 **COLLABORATIVE PROCESS?**

11 A. No, it was not developed on a collaborative basis at all. The CLEC plan was developed  
12 specifically by a small group of CLECs and does not incorporate input from any state  
13 commission, the FCC, or any ILEC. It has not been adopted by any state commission, and  
14 it has most recently been rejected by the commissions in both Wisconsin and Michigan.

15 **Q. MS. MOORE SUGGESTS THAT THE CURRENT REMEDY PLAN WAS NOT**  
16 **DESIGNED FOR THE AMERITECH REGION. IS THAT AN ACCURATE**  
17 **ASSESSMENT?**

18 A. No. Ameritech Illinois' performance measures and standards are virtually the same as  
19 those used by SWBT in Texas – in fact, the ICC required Ameritech Illinois to implement  
20 the Texas measures and standards pursuant to Condition 30 of the SBC/Ameritech merger  
21 approval. Given that the Texas remedy plan was designed to work with the same measures  
22 and standards, it makes perfect sense that it was adopted for Illinois, and that's just what  
23 the ICC directed us to do in Condition 30.

1 I also disagree with Ms. Moore's underlying suggestion that the Remedy Plan is designed  
2 to work only in Texas. Virtually identical plans have been approved by the FCC for use in  
3 Kansas and Oklahoma, which are much smaller states than Texas. Further, the FCC  
4 required SBC/Ameritech to implement similar plans throughout all their states as a  
5 condition of its merger approval.

6 **Q. IS THE CLEC PROPOSAL DESIGNED FOR USE IN ILLINOIS?**

7 A. No. It is the same as the proposal they have made in other Ameritech states. So the  
8 CLECs apparently agree that a given performance remedy plan can work in more than one  
9 state.

10 **PER OCCURRENCE VS. PER MEASURE REMEDIES**

11 **Q. WHAT IS THE PRINCIPAL DIFFERENCE BETWEEN THE PARTIES HERE?**

12 A. The CLEC proposal assesses fixed "per measure" remedies, no matter how few or how  
13 many transactions were affected. It is intended to generate remedy payments by Ameritech  
14 Illinois at the highest possible level, and in the process create a new income stream for  
15 CLECs, even those that do not make an effort to compete.

16 Ameritech Illinois' existing plan is predominantly a "per occurrence" plan, paying higher  
17 remedies as a greater number of transactions are generated. Ameritech Illinois' plan is also  
18 flexible in that it balances the method by which remedies are paid. Although the plan  
19 generally pays remedies on a "per occurrence" basis, those measurements for which very  
20 few occurrences are expected pay remedies on a per measure basis. For those  
21 measurements that generate a very large number of occurrences, the remedy calculation is  
22 capped at the "per measure" level.

1 **Q. HOW DOES THE CLEC PLAN GENERATE REMEDY PAYMENTS BY**  
2 **AMERITECH ILLINOIS AT THE HIGHEST POSSIBLE LEVEL?**

3 A. Remedy payments are generated for small sample sizes by virtue of the “per measure”  
4 structure the CLECs propose. That creates unlimited opportunities where the CLEC plan  
5 generates large remedy payments even though an individual CLEC did not conduct any  
6 real volume of business.

7 **Q. WHY IS IT NECESSARY TO HAVE A METHOD TO FAIRLY EVALUATE**  
8 **THESE SMALL SAMPLES, AND CALCULATE REMEDIES COMMENSURATE**  
9 **WITH THE VOLUME?**

10 A. In the collaborative workshops, CLECs continually pushed to have performance data  
11 sliced into smaller and smaller categories or disaggregations. Ameritech Illinois now has  
12 163 performance measures with 3,024 disaggregations (product, service, and geography) of  
13 data. With a performance plan as deeply disaggregated as we have, one can expect many  
14 instances where the volume of transactions in any one category would be small. The  
15 CLECs’ “per measure” plan does not account for small samples like that, and in fact does  
16 nothing but assess the same high payment even when it is not reasonable to do so. These  
17 are truly chaotic results.

18 **Q. DOES MS. MOORE CLAIM THE CLEC PLAN AVOIDS THESE PROBLEMS?**

19 A. Yes. At page 7 of her direct testimony, Ms. Moore states that once tests determine that a  
20 submeasure (disaggregation) has failed, the calculated remedy reflects the severity of the  
21 performance failure in a continuous function magnitude of the modified z-statistic relative  
22 to the balancing critical value. She contends that in this way small changes in severity lead

1 to small changes in consequences, assuring "that mathematically chaotic results are  
2 avoided."

3 **Q. DO YOU AGREE WITH MS. MOORE?**

4 A. No, I do not. The problem is that we are not talking about accounting for severity, we are  
5 trying to account for differences in volume. As I stated above, one can easily see with a  
6 quick review of the CLEC proposal, that there are plenty of opportunities for "chaotic  
7 results." Simply by filtering the CLEC spreadsheets, I counted almost 1,200 (1,182)  
8 situations in the remedy data provided by the CLECs, where a volume of five (5) or less  
9 transactions generated a \$25,000 remedy payment. Dr. Kalb provides the evidence of this  
10 in his testimony on page 44, which depicts a table entitled "CLEC Tier 1 Analysis". This  
11 table shows that, for the simulated data provided for October, November and December,  
12 CLECs would have received over \$78 million in remedies. Given Dr. Kalb's assessment of  
13 the "failure rate" as 19.73% in the aggregate, a payment of over \$26 million per month is  
14 certainly not reasonable for performance that could be given a "B" grade, over 80% in  
15 compliance. This calculation reinforces my belief that the basic purpose of the CLEC plan  
16 is to generate a new revenue stream to the CLECs.

17 **Q. DOES AMERITECH ILLINOIS' REMEDY PLAN PRODUCE CHAOTIC**  
18 **RESULTS?**

19 A. No, it does not. Ameritech Illinois' plan reflects that volume matters for some measures  
20 and not for others. The CLEC proposal does not; it applies the same "per measure  
21 remedies regardless of the volume of transactions affected and regardless of the  
22 competitive impact of a miss. As explained in my direct testimony (at p. 27), the CLEC  
23 plan effectively removes any incentive to compete.

1 **Q. DO YOU AGREE WITH MS. MOORE WHEN SHE STATES THAT TO "INCENT**  
2 **THE ILEC APPROPRIATELY, THE CHANGE IN CONSEQUENCES SHOULD**  
3 **ESCALATE (ACCELERATE) AS THE SEVERITY OF THE FAILURE**  
4 **INCREASES."**

5 **A.** I agree with Ms. Moore that a more severe "miss" should not be treated the same as one  
6 that "just missed." The Ameritech Illinois plan addresses severity by incorporating the  
7 difference from the benchmark or parity threshold into the calculation of the remedy  
8 payment. I do not necessarily agree with Ms. Moore that an escalating remedy provides an  
9 incentive to the ILEC. Ameritech Illinois endeavors to provide quality service to its  
10 customers; Ameritech Illinois does not just disregard orders when the due date or  
11 maintenance appointment is missed.

12 **Q. DO YOU AGREE WITH DR. KALB'S SUGGESTION (AT P. 44) THAT "THERE**  
13 **IS A LACK OF AN INCENTIVE IN THE TEXAS PLAN FOR AMERITECH TO**  
14 **IMPROVE SERVICE QUALITY OVER TIME"?**

15 **A.** No. This statement ignores the actual experience to date in Illinois. In May 2000, 126 of  
16 199 of the remedied measures (aggregate CLEC results) were in compliance (63.3% in  
17 compliance), while in May of 2001, 230 of 296 were in compliance (77.7% in  
18 compliance). Not only has Ameritech Illinois improved its performance since the plan  
19 went into effect, but it did so in the face of implementing an additional 98 performance  
20 measures on which remedies are assessed.

21 **Q. WHAT STEPS DID AMERITECH ILLINOIS TAKE TO ACHIEVE THIS**  
22 **IMPROVEMENT?**

1 A. Additional steps that Ameritech Illinois has taken to improve wholesale service include:

- 2 (1) The implementation of a formal Wholesale Improvement Team led by a dedicated  
3 VP which includes VP and Officer participation from Network, LOC, LSC, IT,  
4 Directory and Regulatory;
- 5 (2) Prioritizing wholesale orders and tickets within Network;
- 6 (3) Conducting daily analysis of performance in Network Operations Center;
- 7 (4) Instituting a zero miss tolerance for Wholesale items (to benefit wholesale);
- 8 (5) Establishing weekly calls between Network and LOC senior management to  
9 review joint issues;
- 10 (6) The development of Performance Improvement Plans developed by responsible  
11 organizations for all out-of compliance measures; and
- 12 (7) Conducting weekly VP/GM calls to review UNE/DSL missed items.

13 **CLEC MARKET PENETRATION "MULTIPLIER"**

14 **Q. PLEASE DESCRIBE THE CLEC PLAN'S MULTIPLIER FOR TIER 2 REMEDIES**  
15 **DISCUSSED BY MS. MOORE AT PAGE 10 AND ATTACHMENT C OF HER**  
16 **TESTIMONY.**

17 A. Ms. Moore states the CLEC plan has two different payment amounts that correspond to the  
18 two levels of poor performance for Tier 2 remedies. The plan structure includes a factor  
19 "n" in the calculation. This factor is a multiplier whose value depends upon the openness  
20 of the local market to competition. The value of "n" decreases as the number of CLEC  
21 served lines increases. This results in Tier 2 payments decreasing to zero as the CLEC  
22 market penetration increases to 50%. The value of "n" is calculated each month. The  
23 CLECs say that this factor will provide a major incentive for Ameritech Illinois to keep  
24 competitive markets open.



1 **Q. IS THIS AN APPROPRIATE INCENTIVE FOR AMERITECH ILLINOIS?**

2 A. No, because once again this incentive ignores the volume of business by each CLEC. As  
3 stated earlier, ignoring volume creates an inappropriate incentive, rewarding CLECs who  
4 do little business instead of those who do more. The CLEC plan compounds that  
5 undesirable incentive, literally, with their "market penetration" multiplier. The multiplier  
6 (and thus, the remedy amount) increases as the volume of CLEC business *decreases* for the  
7 applicable product or service measured.

8 **Q. WOULD THE MULTIPLIER REALLY MOTIVATE AMERITECH ILLINOIS TO**  
9 **INCREASE COMPETITION?**

10 A. No. The asserted purpose of the multiplier is to penalize Ameritech Illinois for the lack of  
11 "market penetration" by CLECs. That is not the way it would work in practice, however.  
12 First, the CLEC plan would calculate the multiplier factor at the level of individual  
13 measurement categories, which do not reflect real market penetration. Ameritech Illinois'  
14 performance measures are sliced into numerous categories, each corresponding to a  
15 different product or service, and further divided by geographic area and other factors (for  
16 example, installation measures for orders that require "dispatch" of a technician are  
17 reported separately from orders that do not require such dispatch). Volumes for a few  
18 categories are bound to be low -- not due to any lack of market penetration, but because  
19 CLECs made business decisions to enter the market with different products, or in different  
20 geographic areas.

21 Second, the CLEC factor expressly excludes, and thus ignores, three important types of  
22 market penetration: (1) use of cable TV facilities, (2) special access facilities, and (3)  
23 UNE-P. That creates an improper incentive -- CLECs that enter by those methods (most

1 notably, AT&T), instead of by unbundled access or resale can enter or even take over the  
2 local market, while still watching their competitor (Ameritech Illinois) pay undeserved  
3 penalties due to lack of market penetration. In fact, Ameritech Illinois would still pay  
4 penalties for this purported "lack of market penetration" even if AT&T took over 99% of  
5 the market by using cable or UNE-P.

## 6 **CAPS AND THRESHOLDS**

7 **Q. PLEASE DESCRIBE THE CLEC PLAN'S USE OF CAPS AND THRESHOLDS.**

8 A. As discussed by Ms. Moore at pages 12 and 15 of her testimony, the CLECs do not support  
9 a cap on remedy payments. They instead support a review threshold that allows for a  
10 regulatory hearing when a certain level of remedy payments is exceeded. But if a review  
11 threshold is adopted, it would not affect Tier 1 payments to CLECs.

12 **Q. DO YOU BELIEVE A REVIEW THRESHOLD IS BETTER THAN A "CAP" AS IS**  
13 **USED UNDER THE CURRENT PLAN?**

14 A. No, I do not. The CLEC plan assumes that the remedy plan is the only tool that the ICC or  
15 the CLEC has to ensure compliance with performance standards. I have already described  
16 in my direct testimony that it is not. Most importantly, in proposing their version of a  
17 "review threshold" instead of a cap, the CLEC plan is really designed to protect their new  
18 income stream by defining the threshold to apply only to Tier 2 remedies (payable to the  
19 State). That suggests there would be no cap, no threshold, and no hearing to stop the Tier 1  
20 remedies that the CLECs collect. In other words, they have only placed a limit on remedies  
21 that are paid to someone else, not to themselves.

## 22 **K-TABLE**

1   **Q.   PLEASE DISCUSS STAFF WITNESS DR. PATRICK'S CONCERN (AT P. 49)**  
2       **THAT BY VIRTUE OF ITS STRICT ADHERENCE TO THE SWBT TEXAS**  
3       **PLAN, AMERITECH ILLINOIS HAS IMPLEMENTED A K-TABLE THAT**  
4       **INCLUDES A MISSED STEP.**

5   **A.**   Dr. Levy describes this issue in more detail in his testimony. From a policy perspective,  
6       Ameritech Illinois acknowledges that the K-table that it adopted as an obligation of the  
7       SBC/Ameritech merger is not technically correct and is willing to implement the corrected  
8       table. As Dr. Patrick points out, Ameritech Illinois did not feel that it was appropriate to  
9       modify this condition of the merger without the approval of the ICC. This proceeding  
10      provides the appropriate forum and mechanism to modify this condition. As can be  
11      determined from the simulated data provided to the parties, the implementation of the  
12      corrected table has a minimal effect on the remedy payments. A review of this data reveals  
13      that the difference in the application of the corrected (Mallows) K-table opposed to the  
14      Texas K-table for the three months of data for October, November, and December, results  
15      in the movement of only one sub-measure (in December, Tier 2), out of a total of 18,745  
16      sub-measures, from parity to disparity.

17   **Q.   PLEASE DISCUSS DR. PATRICK'S RECOMMENDATION THAT K-TABLE BE**  
18       **ELIMINATED.**

19   **A.**   Again, Dr. Levy addresses this issue in more depth. But I do want to say that Dr. Patrick's  
20       opposition to the K-value is based primarily on her mischaracterization of the K-value as a  
21       "forgiveness factor". The K-value is *not* a forgiveness factor, and that is not the way I  
22       understand or intend it. The purpose of the K-value is not to give Ameritech Illinois a way  
23       to avoid payment where a remedy is proper, but rather to recognize the fact that some

1 remedies are *not* proper, because of the risk of random error in the performance  
2 assessment process.

3 **Q. PLEASE DISCUSS DR. PATRICK'S SUGGESTION THAT IT IS ACCEPTABLE**  
4 **FOR AMERITECH ILLINOIS TO PAY REMEDIES EVEN WHEN AMERITECH**  
5 **ILLINOIS IS PROVIDING PARITY PERFORMANCE.**

6 A. Dr. Patrick's view is that it would be all right for Ameritech Illinois to pay remedies even  
7 when there is parity (Type I error), because there is a chance that (due to random error)  
8 remedies would not be assessed when there is disparity (Type II error). In other words, her  
9 opinion is that errors go both ways. Dr. Patrick's suggestion disregards the fact that  
10 remedies go in only one direction. Neither the current remedy plan nor the CLEC  
11 proposal provides any relief for Ameritech Illinois when it provides performance in excess  
12 of the standard. There is no credit, no mechanism for CLECs to compensate Ameritech  
13 Illinois, or for Ameritech Illinois to recover remedies in a situation where performance is  
14 better than the standard.

15 **HIGH/MEDIUM/LOW WEIGHTS**

16 **Q. MS. MOORE AND DR. PATRICK OPPOSE THE USE OF WEIGHTINGS FOR**  
17 **INDIVIDUAL PERFORMANCE MEASURES. WHY DOES AMERITECH**  
18 **ILLINOIS BELIEVE THESE WEIGHTINGS ARE APPROPRIATE?**

19 A. There are over 160 (163) performance measures, which are further broken down into over  
20 3,000 (3,024) measurement categories. They are designed to address a variety of functions.  
21 There is no escaping the fact that different OSS functions (and the associated performance  
22 measures) can have a different impact on competition. As explained in my direct

1 testimony (at pp. 15-16), with some measures, the link between performance and the  
2 marketplace is direct, and end users notice. With other measures, though, the connection is  
3 less direct, and end users do not notice a disparity in service. Ameritech Illinois' proposed  
4 priority measures merely reflect this reality.

5 **Q. ARE AMERITECH ILLINOIS' PRIORITIES "ARBITRARY" AS THE CLECS**  
6 **CONTEND?**

7 A. No. The CLECs' claim that priorities are "arbitrary" is simply wrong. The particular  
8 classifications here were not plucked from thin air, as the CLECs seem to suggest. Rather,  
9 they were developed by the Texas PUC, with input from incumbent and competing LECs,  
10 and with subsequent review and approval by the FCC. Additionally, Ameritech Illinois  
11 offered to discuss these designations during the collaborative process, but the CLECs  
12 refused to negotiate these designations. As described above, the classifications suggested  
13 in the Ameritech Illinois plan simply reflect common sense -- not all measures affect  
14 competition equally, and the impact of some measures is already captured by others.

15 It would be "arbitrary" not to consider those facts. In fact, even though the  
16 CLECs oppose the priority system here, their own proposal effectively acknowledges that  
17 some performance measures matter more than others. Their "parity with a floor" proposal,  
18 which I describe below, sets floors only for a few measures that they think are "key"  
19 measures. Mr. Cox (at p. 12) specifies that there are only 17 "key" measures that should  
20 be included in the "Parity with a Floor" program. The CLEC proposal (at p. 7) documents  
21 that "These 17 represent high customer impact, along with being business critical."

1 **Q. ARE AMERITECH ILLINOIS' PRIORITY WEIGHTS BIASED IN FAVOR OF**  
2 **CERTAIN PRODUCTS OR SERVICES?**

3 A. The CLECs' contention that the priorities are biased in favor of certain products or services  
4 over others is simply not true. The distinction Ameritech Illinois makes is by measure, not  
5 by product. Thus, for example, the average installation interval for each and every  
6 category of unbundled loops receives the same (high) priority as the average installation  
7 interval for interconnection trunks or any of the various resale services.

8 **PARITY WITH A FLOOR**

9 **Q. DO YOU AGREE WITH MR. COX'S CONTENTION AT PAGE 12 OF HIS**  
10 **TESTIMONY THAT "...IF A MINIMUM LEVEL OF SERVICE SUCH AS**  
11 **"PARITY WITH A FLOOR" WERE IN PLACE . . ., THERE WOULD BE A**  
12 **BACKSTOP IN PLACE TO PROTECT ALL CUSTOMERS, WHOLESALE AND**  
13 **RETAIL, FROM THE INFERIOR SERVICE THAT AMERITECH PROVIDES**  
14 **TODAY"?**

15 A. No, I do not. As explained in my direct testimony (at pp. 31-32) "Parity with a floor" does  
16 not promote nondiscrimination because it applies only to wholesale services. Rather, it  
17 would penalize nondiscrimination and instead would motivate Ameritech Illinois to  
18 provide CLECs with superior service. In this respect, "Parity With A Floor" is contrary to  
19 the principle of nondiscrimination and should be rejected.

20 **Q. DOES THE AMERITECH ILLINOIS REMEDY PLAN PENALIZE AMERITECH**  
21 **ILLINOIS IF IT TREATS ITS RETAIL CUSTOMERS BETTER THAN CLEC**  
22 **CUSTOMERS?**

1 A. Yes, it does. Throughout his testimony, Mr. Cox claims that Ameritech Illinois provides  
2 better service to its retail customers than to its wholesale customers. But Ameritech  
3 Illinois' plan already contains the appropriate deterrent for such behavior. To the extent  
4 Ameritech Illinois treats itself better than it treats CLECs, it would fail the "parity" test  
5 under the existing remedy plan and would be required to pay remedies to the affected  
6 CLECs. The way to ensure nondiscrimination, and to prevent Ameritech Illinois from  
7 providing better service to retail versus wholesale customers (*i.e.* CLECs), is to enforce the  
8 nondiscrimination standards already contained in Ameritech Illinois' plan, not to add  
9 arbitrary new benchmarks on top of them.

10 **Q. HOW DO THE CLECS AND STAFF JUSTIFY THEIR POSITION?**

11 A. Mr. Cox describes (at p. 6) the CLECs' proposal as an "objective standard of quality for all  
12 of its customers, both retail and wholesale, that results in an adequate level of service  
13 quality for all SBC/Ameritech customers." Mr. McClerren states that "As a concept, I  
14 agree that there should be additional incentives for the ILEC to meet minimum standards of  
15 service quality, as required by 83 Ill. Adm. Code Part 730." The CLEC plan (at p. 6) puts  
16 these measurements in the context of, and describes them as, state minimum service levels,  
17 but they are not, for the most part, required by Part 730. A closer examination of the  
18 measures CLEC plan (at p. 8) reveals that the origin of 11 of the 19 proposed floor  
19 measurements targets lie with the CLECs themselves, based on their review, their internal  
20 resources, or their Local Competition Users Group.

21 **Q. HAS THE ICC ALREADY ESTABLISHED RETAIL SERVICE STANDARDS?**

22 A. Yes, it has. As the CLECs themselves recognize, the ICC has already established retail  
23 service standards, and it has created a system of rules and credits to enforce those standards

1 (not to mention the natural incentives that Ameritech Illinois already has for increasing  
2 retail customer satisfaction and thus customer revenues). The way to improve retail  
3 performance is not to create a new system of penalties for wholesale performance, but to  
4 use and, if necessary, improve the existing incentives for retail performance. I believe that  
5 the existing rules provide appropriate incentives to ensure performance on both sides; as  
6 retail performance rises, so should the wholesale performance with a parity based process.

7 **Q. HAS AMERITECH ILLINOIS TAKEN STEPS IN ADDRESSING RETAIL**  
8 **SERVICE QUALITY ISSUES?**

9 A. Yes, it has. As has been noted in recent news reports and in comments from the ICC  
10 Chairman, Ameritech Illinois has taken steps and made progress in addressing retail service  
11 quality issues. Some of these steps include:

- 12 (1) Upgrading network facilities;
- 13
- 14 (2) An increase in network service force levels; and
- 15
- 16 (3) The deployment of new labor saving technologies and equipment to increase
- 17 productivity, such as the Intelligent Field Device and the Global Positioning
- 18 System;
- 19

20 These and other improvements made by Ameritech Illinois to address retail service issues  
21 will also positively affect wholesale performance, in a parity process.

22 **AFFILIATE COMPARISONS**

23  
24 **Q. PLEASE COMMENT ON MS. MOORE'S TESTIMONY (AT P. 17)**  
25 **CONCERNING THE CLECS' PROPOSAL TO ASSESS PARITY BASED ON THE**  
26 **BETTER OF AMERITECH ILLINOIS' RETAIL OR AFFILIATE**  
27 **PERFORMANCE.**



1 A. The CLECs state this requirement generically, but they do not designate the specific  
2 performance measures where they require a comparison for both retail and affiliate. At the  
3 beginning, I want to make clear that Ameritech Illinois does not dispute the requirement to  
4 provide nondiscriminatory service to CLECs, to itself, and to its affiliates. That is why our  
5 performance measures call for us to report affiliate data along with CLEC and retail data.  
6 That is why Ameritech Illinois' affiliates use the same processes and interfaces to conduct  
7 business with Ameritech Illinois as all CLECs do.

8 The problem is that the CLECs want Ameritech Illinois to calculate automatic remedy  
9 payments using retail and affiliate data, not just retail data. That means another set of  
10 statistical analyses, and it increases the administrative complexity of the plan. Further, the  
11 benefit of these additional analyses would be small. Many of the sample sizes for affiliate  
12 data are small. It's not likely that Ameritech Illinois would have any incentive to  
13 discriminate on so few transactions. Further, just as one would expect varying levels of  
14 performance between CLECs in any process, due to random variation, one would expect  
15 that affiliate data would also be subject to such variation. Given the smaller sample sizes,  
16 it is more likely that a few isolated transactions might skew the affiliate data, generating  
17 remedies where there was no real problem overall.

#### 18 STATISTICAL TESTING FOR BENCHMARKS

19 Q. BOTH MS. MOORE AND DR. PATRICK ADVOCATE THE ELIMINATION OF  
20 STATISTICAL TESTS ON BENCHMARKS. DO YOU AGREE?

21 A. No, I do not. Both Ms. Moore and Dr. Patrick suggest that since no benchmark is set at  
22 100%, there is already significant leeway provided to Ameritech Illinois. First, no process

1 reasonably expects perfection, or 100% compliance every single time. That is why  
2 benchmarks are established. The higher the benchmark, the higher the level of service  
3 quality. Benchmarks set at 94-99.5%, as is the case with Ameritech Illinois' plan, suggest  
4 high quality service.

5 Second, the premise that statistical tests are not necessary when evaluating performance  
6 against a benchmark is inconsistent with the basic fact, addressed by Dr. Levy, that random  
7 variation affects all actual performance data, no matter what standard it is being compared  
8 to.

9 **Q. ARE AMERITECH ILLINOIS' BENCHMARKS SET AT A LOW RANGE?**

10 A. No. Ms. Moore states (at pp. 7-8) that benchmark levels have been set at "the lower range  
11 of what a viable competitive support process should be capable of delivering" on a routine  
12 basis. Ameritech Illinois performance measures include benchmarks set at 94%, 95%,  
13 96.5%, 98%, 99%, and 99.5%. These are not minimum benchmarks at the lower range of  
14 anything. Rather, these are aggressive targets set at levels that are at the upper range of  
15 service quality.

16 **Q. ARE THERE ANY OTHER METHODS USED TO ADDRESS VARIATION IN**  
17 **BENCHMARK DATA?**

18 A. Yes. Dr. Levy suggests one such mechanism in his testimony. However, it is important to  
19 note that while the CLECs disagree with the method that Ameritech Illinois uses to address  
20 this variation in the data, there can be no debate that random variation does exist and  
21 should be accounted for. Ameritech Illinois adopted the Texas plan as a merger condition  
22 and was obligated to implement the plan as it was documented by SWBT. If the parties

1 want to use a different method to address such variation, they should evaluate and propose  
2 other mechanisms, rather than simply throw away the baby with the bath water as is  
3 suggested here.

#### 4 **IMPLEMENTATION OF MICHIGAN REMEDY PLAN**

5 **Q PLEASE COMMENT ON MS. MOORE'S TESTIMONY (AT PP. 23-25)**  
6 **CONCERNING NEGOTIATIONS IN MICHIGAN TO INCORPORATE THE**  
7 **REMEDY PLAN VIA AN INTERCONNECTION AMENDMENT AND ITS**  
8 **APPENDIX.**

9 A. Ms. Moore cites two objectionable aspects to this proposal, each of which she believes  
10 shows that Ameritech Michigan has failed to comply with the Michigan Public Service  
11 Commission's ("MPSC") recent order approving a remedy plan. First, Ms. Moore infers  
12 that the Appendix indefinitely delays implementation of the MPSC's mandate in the  
13 MPSC's Remedy Order by stating it is not effective until any MPSC order "becomes final,  
14 non-modifiable, and any appeals are exhausted".

15 Second, Ms. Moore maintains the Appendix confers on Ameritech Michigan the unilateral  
16 ability to veto the application of the MPSC's remedy plan because the Appendix provides:  
17 "The parties expressly reserve all of their rights to challenge any liquidated damage/remedy  
18 award, including but not limited to the right to oppose any such order and associated  
19 contract provision because remedy/liquidated damage provisions must be voluntarily  
20 agreed to and AM-MI does not at this time so agree." According to Ms. Moore, in this  
21 clause, Ameritech Michigan is stating that it, not the MPSC, decides on whether it needs to  
22 offer the remedy plan. She also states, "Not surprisingly, once it establishes its 'right' to

1 self-regulation, Ameritech decides it does not like the idea of paying remedies to CLECs,  
2 and opts to ignore the Commission's decision."

3 Ms. Moore has submitted selected language from the Appendix offered by Ameritech  
4 Michigan to implement the MPSC's Remedy Order. However, Ms. Moore fails to describe  
5 the context in which that offer was made, and most significantly fails to fully describe the  
6 Amendment which was submitted at the same time as the Appendix. Based on her  
7 incomplete and misleading discussion of the two documents, she contends that Ameritech  
8 Michigan does not intend to comply with the MPSC's Remedy Order or to pay  
9 performance remedies to CLECs.

10 **Q. HOW HAS MS. MOORE MISREPRESENTED AND MISCONSTRUED THE**  
11 **CONTRACT PROPOSAL?**

12 A. In its Remedy Order the MPSC adopted, with some modifications, the remedy plan  
13 proposed by Ameritech Michigan. Both Ameritech Michigan and various CLECs filed  
14 petitions for rehearing of certain aspects of that order, as is their right under law. The  
15 MPSC ruled on those petitions by order of July 25, 2001 ("Remedy Rehearing Order"). It  
16 granted Ameritech Michigan's petition in part, denied the CLEC petition, and modified its  
17 April 17, 2001 Order accordingly. While the rehearing petitions were pending, Ameritech  
18 Michigan proposed a contract Amendment to its interconnection agreements. The contract  
19 Amendment that was provided to AT&T clearly provided that the Amendment (Moore  
20 Attachment F) would become effective 10 days after it was approved by the MPSC (par. 5  
21 of Amendment.) Moreover, the contract Amendment provided that: "Performance  
22 Measure remedies shall be available based on performance data from the next full month  
23 following the Amendment's Effective Date." (Par. 6 of Amendment.)

1 To avoid any appearance of delay, Ameritech Michigan subsequently revised the  
2 Amendment to reflect that the effective date be 10 days after filing of the Amendment with  
3 the MPSC. In short, Ameritech Michigan clearly intended to comply with the Remedy  
4 Order, and to pay remedies in accordance with that Remedy Order's terms, so long as the  
5 Remedy Order remains in effect.

6 **Q. DOES MS. MOORE MISCONSTRUE THE INTENT AND PURPOSE OF THE**  
7 **APPENDIX (MOORE ATTACHMENT G)?**

8 A. Yes. The intent of section 1.6 in the Appendix referred to by Ms. Moore was not to evade  
9 compliance with MPSC orders now or at any future date. In fact, the first sentence of  
10 section 1.6 stated that state commission orders "shall be . . . incorporated into this  
11 Agreement by reference and shall supersede and supplant all performance measurements  
12 previously agreed to by the parties."

13 In order to avoid any further confusion regarding its intentions, Ameritech Michigan issued  
14 a revised version of its proposed contract Appendix. Ameritech Michigan provided the  
15 new Amendment and Appendix to AT&T and has posted the Appendix to the CLEC  
16 Online web-site to make it available to any interested CLEC. The Revised Appendix is  
17 substantially the same as agreed to by the parties in similar proceedings in Illinois and  
18 Ohio. The revised language is contained in a new section entitled "2. Results of  
19 Collaborative Process." Section 2.2, like the aforementioned section 1.6, contains a mutual  
20 reservation of any rights both parties may have to challenge MPSC orders in this area.

21 Without such a reservation, one party may argue that the other waived, in advance, its legal  
22 rights to challenge a future remedy order. Note that this sentence states: "The parties  
23 expressly reserve all of their rights to challenge..." It does not state and it was not intended

1 to suggest that, out of the blue, one party may decide it does not want to pay remedies or  
2 obey Commission orders anymore. Rather, the last sentence simply reserves whatever  
3 rights either party may have to argue, in an appropriate forum, that a Commission-ordered  
4 remedy plan is not appropriate. Ameritech Michigan and the CLECs have rights according  
5 to law to seek revision of MPSC orders, and this language protects each of their respective  
6 rights in a thoroughly even-handed fashion.

7 Finally, let me remind the ICC of the record in Illinois. The ICC required Ameritech  
8 Illinois to implement the "Texas" remedy plan as a condition of merger approval, and  
9 Ameritech Illinois complied. The plan is now in place. Ms. Moore's suggestion that  
10 Ameritech Illinois will not comply with future ICC orders in Illinois is belied by the record.

11 **Q. BOTH MS. MOORE (P.27) AND MR. COX (P.16) SUGGEST THAT THE**  
12 **REMEDY PLAN SHOULD BE IMPLEMENTED BY AN ICC ORDER RATHER**  
13 **THAN BY INTERCONNECTION AMENDMENT. DO YOU AGREE?**

14 **A.** No. Ms. Moore and Mr. Cox ignore the obvious problems associated with this course. In  
15 my last review of interconnection agreements, I found 25 CLECs in Illinois that have  
16 performance measurements and/or liquidated damage provisions in their existing  
17 agreements. Any ICC order would have to address these situations, which, if not  
18 addressed, could allow CLECs to collect remedy payments twice for the same  
19 performance. Given such circumstances, an interconnection amendment is clearly the most  
20 appropriate mechanism for CLECs to adopt this remedy plan.

1 **Q. PLEASE COMMENT ON MR. COX'S TESTIMONY (AT P. 17 AND EXHIBIT 1.1)**  
2 **CONCERNING MCLEOD'S COMMUNICATIONS WITH AMERITECH**  
3 **ILLINOIS REGARDING ITS REQUEST FOR A REMEDY PLAN AMENDMENT.**

4 A. Even though Mr. Cox acknowledges that McLeod decided to forego amending the  
5 agreements within one month of making the request, he infers that Ameritech Illinois  
6 caused delays resulting in the process taking over a year to consummate. This is  
7 inaccurate.

8 An accurate characterization of the history between McLeod and Ameritech Illinois is that  
9 McLeod made a request for the amendment at the end of October (10/24/00) and a fully  
10 executed Amendment for Illinois was received by them on 1/19/01. Although I was not  
11 directly involved, I understand from my discussions with the account team that the delays  
12 incurred during that time were primarily based on miscommunication of exactly which  
13 amendment McLeod really wanted. In his Exhibit 1.1, Mr. Cox refers to McLeod  
14 requesting the "latest version" of the amendment (10/24/00), the "Amendment written as a  
15 result of the collaborative process in IL & OH" (11/13/00), and finally the "AT&T IL PM  
16 Amendment" (11/20). Regrettably, Ameritech Illinois did not fully understand the specific  
17 document that McLeod was requesting for Illinois until the end of November (11/28). In  
18 this case the entire process did take longer than Ameritech Illinois would normally expect.

19 Subsequent to the receipt of the fully executed agreement, additional time was required  
20 based on the processes required (Joint Petition) in Illinois to amend these agreements.  
21 Additionally, Mr. Cox makes no mention of the fact that the remedies received in June  
22 2001, reflect performance for the data month of April 2001. The normal process is that

1 Ameritech Illinois posts performance data (April) in the month following (May) and  
2 applies remedies in the next month (June).

3 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

4 **A. Yes.**